

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Guidelines for Evaluating the Environmental )  
Effects of Radiofrequency Radiation )

ET Docket No. 93-62

To: The Commission

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**REPLY COMMENTS**

PageMart II, Inc. ("PageMart"), submits these its Reply Comments in support of certain Petitions for Reconsideration ("Petitions") filed in the above-referenced proceeding. Oppositions concerning the Petitions were filed on October 8, 1996. Replies are due to be filed on October 18, 1996.

**INTRODUCTION**

1. PageMart is a nationwide CMRS provider, with headquarters in Dallas, Texas. It is licensed by the Commission to provide paging and personal communications services through-out the United States. Accordingly, because the Commission has included paging facilities under these electromagnetic energy emissions ("EME") exposure rules, PageMart will be affected by any Commission decision in this matter. Further, PageMart is a sustaining member of the Personal Communications Industry Association, which submitted a Petition for Reconsideration and Clarification on behalf of its members in the referenced proceeding on September 6, 1996.

**BACKGROUND**

2. The Commission initiated this proceeding to update its regulations on environmental effects of EME upon revision in 1992 of the 1982 American National Standards Institute ("ANSI") guidelines, on which the FCC environmental rules are

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based. On release of the Report and Order in the referenced proceeding on August 1, 1996, several parties filed Petitions for Reconsideration. Several of these petitions raised issues of concern affecting PageMart also, namely, the burden on each carrier to secure and maintain compliance at area-wide multi-carrier sites; the viability of the effectively complying with these Rules by January 1, 1997 under vague requirements in the not yet released OST Bulletin No. 65; and the elimination of the categorical exemption from compliance evaluations for paging.

## **DISCUSSION**

### **I. Area Wide Compliance**

3. PageMart agrees with commenter Arch Communications Group, Inc. ("Arch") in its support of Petitioners AirTouch Communications, Inc. ("AirTouch"), U S WEST, Inc. ("U S WEST"), AT&T Wireless Services, Inc. ("AT&T"), Paging Network, Inc. ("PageNet"), Personal Communications Industry Association ("PCIA") and BellSouth Corporation ("BellSouth") that the Commission must reconsider the wide-area compliance obligations of the licensees. PageMart agrees that the site owner, not the individual licensees, must be responsible for the area-wide compliance of multi-carrier sites.

4. It is PageMart's position that EEM compliance is analogous to FAA compliance under Part 17 of the Commission's Rules. In Part 17, the owner of the tower must adhere to the Rules, monitoring and maintaining the proper painting and lighting. So too should the site owner be responsible for EEM compliance because the owner has access to the site and has knowledge of the power and height specifications of each individual user, as well as any modifications that have occurred. Additionally, in the present of market area licensing environment, where sites can be constructed without Commission authorizations and thus without Commission records, each individual user would have to monitor the site, research who made what modifications and then run an

evaluation. PageMart has over 2,000 sites through-out the United States. To monitor each one and do continuous evaluation, and to have to do this along with all the other users on multi-carrier sites, would be an overwhelming waste of valuable resources. The better proposal would be to confine the compliance responsibilities to one entity, the site owner.

## **II. Viability of Compliance Date**

5. PageMart joins commenters AT&T, Arch and Cellular Telecommunications Industry Association ("CTIA") in urging the Commission to postpone the effectiveness date of compliance with the new exposure limits from January 1, 1997 until at least one year after the issuance of the revised OST Bulletin 65. Because the rules promulgated in the Report and Order are vague and no details as to compliance have been released<sup>1/</sup>, licensees do not yet know, for example, where EME should be measured, the frequency of the measurements, the nature of area-wide compliance and the steps to reach compliance if limits are exceeded. All of these will hopefully will be included in the revised OST Bulletin.

6. These uncertainties, as well as the task of evaluating each of the carrier's sites once the OST Bulletin has been released, now scheduled for November or December of 1996, does not offer the carrier sufficient time to evaluate its facilities by January 1, 1997.

## **III. Reinstatement of Categorical Exemption for Paging**

7. Finally, PageMart joins Arch in supporting AirTouch's request for reconsideration of the elimination of the categorical exemption from compliance evaluations for paging facilities that operate at greater than 1000 watts. The previous exemption was due to the low probability that such facilities would exceed the maximum permissible exposure specified in the 1982 ANSI report. Now however, paging facilities

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<sup>1/</sup> PageMart joins with Arch in support of Petitioners AirTouch, PageNet and PCIA who stated that the revised bulletin should be subject to public notice and comment procedures since the bulletin will contain such vital requirements on the industry that carriers should be allowed to participate in it.

are not exempted; although as demonstrated by AirTouch, the record evidence before the Commission does not support the conclusion that paging facilities contribute significantly to EME exposure. See Report and Order at 91, in which the Commission states: "[T]here is no evidence that typical installations in these services cause ground-level exposures in excess of" the established limits. In the Report and Order, the Commission merely indicated that it was including paging in the non-exempted category out of "an abundance of caution."

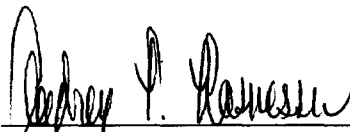
8. PageMart agrees with Arch that, based on the Commission's lack of supporting evidence relating to excessive ground level exposures in paging facilities, the additional compliance costs and the burdens to paging providers cannot be justified merely out of an abundance of caution.

#### CONCLUSION

PageMart respectfully requests that the Commission take these Reply Comments into consideration in connection with the above-referenced proceeding

Respectfully submitted,

**PAGEMART II, INC.**



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Dated: October 18, 1996

## **CERTIFICATE OF SERVICE**

I, Gladys L. Nichols, do hereby certify that on this 18th day of October, 1996, the foregoing **REPLIES OF Pagemart II, Inc. on Petitions for Reconsideration** were served to the following persons by first-class mail:

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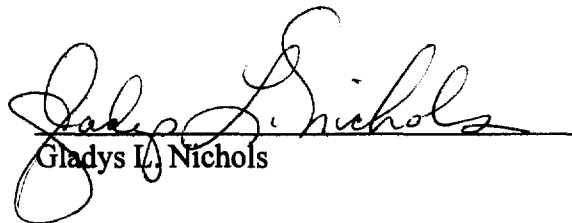
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